

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KARIN FUSSY,

Plaintiff,

v.

RTI SURGICAL,

Defendant.

No. 1:21-cv-01307-KES-CDB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, GRANTING
DEFENDANT'S MOTION TO DISMISS,
AND DISMISSING ACTION WITHOUT
LEAVE TO AMEND

Docs. 25, 61

Plaintiff Karin Fussy, proceeding pro se, initiated this action with the filing of a complaint in state court on March 17, 2021. Doc. 1-1. Defendant RTI Surgical removed the action to this Court on August 27, 2021. Doc. 1. On September 2, 2021, defendant filed a motion to dismiss the complaint. Doc. 4. Plaintiff filed an untimely opposition on November 17, 2021. Doc. 16. The Court granted the motion to dismiss on April 14, 2022, finding that plaintiff had failed to cognizably allege any manufacturing defect claim, design defect claim, failure to warn claim, or negligence claim, and provided plaintiff leave to amend. *See* Doc. 22.

On April 27, 2022, plaintiff filed her first amended complaint. Doc. 24. Defendant filed a motion to dismiss the first amended complaint on May 17, 2022. Doc. 25. Plaintiff filed her opposition on May 31, 2022, and defendant filed a reply on June 10, 2022. Docs. 28, 29. The Court referred the motion to the assigned magistrate judge for the preparation of findings and

1 recommendations on May 14, 2025. Doc. 56.

2 On August 6, 2025, the assigned magistrate judge issued findings and recommendations to
3 grant the motion to dismiss without leave to amend. Doc. 61. The findings and recommendations
4 concluded that plaintiff failed to plead any cognizable claims under theories of manufacturing
5 defects, design defects, failure to warn, and negligence. *Id.* at 6–11. The findings and
6 recommendations also concluded that plaintiff’s request for punitive damages failed. *Id.* at 11–
7 13. The findings and recommendations therefore recommended that, as plaintiff had already been
8 granted leave to amend and failed to file an amended complaint correcting the deficiencies set
9 forth in the Court’s prior order, Doc. 22, further leave to amend be denied. *Id.* Plaintiff filed
10 timely objections to the findings and recommendations on August 25, 2025. Doc. 62.

11 Pursuant to 28 U.S.C. § 636(b)(1), the Court has conducted a de novo review of this case.
12 Having carefully reviewed the entire file, including plaintiff’s objections, the Court concludes
13 that the findings and recommendations are supported by the record and by proper analysis.
14 Plaintiff’s objections fail to meaningfully address the findings and recommendations and do not
15 attempt to correct the deficiencies identified therein.

16 Accordingly, the Court HEREBY ORDERS:

- 17 1. The findings and recommendations issued on August 6, 2025, Doc. 61, are
18 ADOPTED IN FULL;
 - 19 2. Defendant’s motion to dismiss, Doc. 25, is GRANTED;
 - 20 3. Plaintiff’s first amended complaint, Doc. 24, is DISMISSED without leave to
21 amend; and
 - 22 4. The Clerk of the Court is directed to CLOSE this case.
- 23
24

25 IT IS SO ORDERED.

26 Dated: September 14, 2025


UNITED STATES DISTRICT JUDGE